

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

GILBERT DE LA CRUZ §
§
Plaintiff, §
§
vs. §
§
SAFECO INSURANCE COMPANY §
OF INDIANA and GIAN FIGARO, §
§
Defendants. §
§

CIVIL ACTION NO. 3:15-cv-01096-P

**DEFENDANTS' MOTION TO DISMISS
DEFENDANT GIAN FIGARO FOR IMPROPER JOINDER**

For the same reasons articulated in Defendants' Notice of Removal [Doc. 1] as to why this case should be removed to this Court, so too should Plaintiff's claims against Figaro be dismissed in their entirety as a matter of law upon removal. Accordingly, Defendants hereby file this *Motion to Dismiss Defendant Gian Figaro for Improper Joinder* (the "Motion")¹ and in support of the Motion respectfully show the Court as follows:

As shown in Defendants' Notice of Removal, this case is properly removable to this Court based upon complete diversity between the properly joined parties – *i.e.*, Plaintiff and Safeco. In fact, upon removal, diversity jurisdiction will be established as a matter of law and the failure to dismiss Davis would defeat that jurisdiction. For that reason alone – in addition to the arguments contained in Defendants' accompanying Brief in Support – Plaintiff's claims against Davis should be dismissed in their entirety.

¹ In accordance with the Local Rules, Defendants filed a Brief in Support of the Motion [Doc. 2].

I.
REQUEST FOR RELIEF

Based on the foregoing, Defendants Safeco Insurance Company of Indiana and Gian Figaro respectfully request that Plaintiff's claims against Defendant Gian Figaro be dismissed in their entirety. Defendants further request all such other and further relief to which they may be justly entitled.

Respectfully submitted,

/s/ Mark D. Tillman

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**ATTORNEYS FOR DEFENDANTS
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of **Defendants' Motion to Dismiss Defendant Gian Figaro for Improper Joinder** has been forwarded to Plaintiff's counsel of record, as identified below, via electronic means and/or facsimile, on the 10th day of April 2015 in accordance with the Federal Rules of Civil Procedure.

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